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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CRM-M No.37002 of 2020
Date of Decision: 19.03.2021**

SUNITA DEVI @ SUNITA

.....Petitioner

Vs

STATE OF PUNJAB

.....Respondent

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. Monty Goyal, Advocate
for the petitioner.

Mr. Amar Ashok Pathak, Addl. A.G., Punjab.

RAJ MOHAN SINGH, J.(Oral)

The case has been taken up for hearing through video conferencing.

Petitioner seeks grant of regular bail under Section 439 Cr.P.C in case bearing FIR No.104 dated 06.07.2020, registered under Section 22 of the NDPS Act at Police Station Dakha, District Ludhiana.

As per prosecution case, the FIR was registered on the basis of secret information. 250 grams of intoxicant powder and

currency notes of Rs.2500/- were allegedly recovered from the petitioner on 06.07.2020. The contraband was subjected to FSL. On analysis, the same was found to be Lorazepam which according to Schedule finds mentioned at Sr.No.210. Small quantity is that of 10 grams and commercial quantity would be more than 250 grams.

Learned counsel for the petitioner submitted that the alleged recovery is marginally in excess of the quantity prescribed for commercial quantity. Learned counsel by placing reliance upon **Shinda vs. State of Punjab, 2013(3) R.C.R. (Criminal) 557** and **Lakhwinder Singh @ Bittu vs. State of Punjab, 2012(22) R.C.R. (Criminal) 301** contended that the regular bail of the petitioner can be considered in case of recovery of this type which is in excess of commercial quantity.

On 14.01.2021, learned State sought time on the ground that the petitioner is having an antecedent history of criminal cases.

In response thereto, a reply has been filed by disclosing involvement of the petitioner in 8 other cases. Details of the cases have been given in tabulated form in para no.9 of the aforesaid reply. The same reads as under:-

Sr. No.	Particular of case	Recovery	Present Status
1	FIR No.195 dt. 14/12/2010 u/s 341/323/206 IPC, P.S. Dakha	-----	Acquitted on 08/04/2015
2	FIR No.61 dt. 25/03/2016 u/s 22 NDPS Act, P.S. Dakha	320 grams Intoxicant powder	Under trial
3	FIR No.72 dt. 04/04/2017 u/s 15/18/21/22 NDPS Act, P.S. Dakha	-----	FIR cancelled on 20/06/2018
4	FIR No.252 dt. 10/08/2018 u/s 22/61/85 NDPS Act, P.S. Dakha	813 intoxicant tablets	Under Trial
5	FIR No.101 dt. 17/6/2019 u/s 22/61/85 NDPS Act, P.S. Dakha	Nominated as accused u/s 29 NDPS Act	Under Trial
6	FIR No.138 dt. 24/7/2019 u/s 22/61/85 NDPS Act, P.S. Dakha	Nominated as accused u/s 29 NDPS Act	Under Trial
7	FIR No.139 dt. 24/7/2019 u/s 22/61/85 NDPS Act, P.S. Dakha	Nominated as accused u/s 29 NDPS Act	Under Trial
8	FIR No.104 dt. 6/7/2020 u/s 22/61/85 NDPS Act, P.S. Dakha	255 grams intoxicant powder	Challan presented in court on 22/12/2020

Learned counsel for the petitioner on the basis of aforesaid details submitted that the petitioner in undertrial cases has already been granted bail by the competent Courts. In view of **Prabhakar Tewari vs. State of U.P. & Anr., Crl. Appeal No.153 of 2020 (arising out of SLP (Crl.) No.9207 of 2019)** decided on 24.01.2020, involvement of accused in other cases alone, is no ground to discard the claim of bail on merits.

On the other hand learned State counsel submitted that the petitioner is involved in case of commercial quantity, therefore, bar under Section 37 of the NDPS would be attracted.

Keeping in view the aforesaid facts and stage of trial, where no prosecution witness has been examined so far, I deem it appropriate to enlarge the petitioner on regular bail.

In view of above, petition is allowed. Petitioner is ordered to be released on bail, subject to her furnishing adequate bail bonds/surety bonds to the satisfaction of the trial Court/concerned Duty Magistrate.

Nothing expressed hereinabove would be construed to be an expression of any opinion on merits of the case.

March 19, 2021

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Whether speaking/reasoned

Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No

Yes/No